

Appl. No. 10/802,334
Amdt. Dated Aug. 29, 2005
Reply to Office Action of April 29, 2005

REMARKS

Claims 1-29 are pending. Claims 1, 2, 5, 6, 10, 11, 12, 16 - 22, 27, and 28 have been amended for clarification, and the Applicant notes that these amendments are not intended as narrowing amendments. In response to the Applicant's Request for Continued Examination (RCE), a non-final office action has been rendered which rejects all claims.

The Applicant recognizes the Examiner's acknowledgement of the information disclosure statement mailed on Jan. 28, 2005 with appreciation.

Claims Rejection – 35 USC 103

The Office has quoted the statute from 35 USC 103(a), which is referenced herein. The Office has rejected claims 1-29 as being unpatentable over Burko (U.S. Pat. Pub. No. 20020156672A1) in view of Boyer at al (U.S. Pat. No. 6,208,973) and further in view of Sugiyama (EP. Patent App. No. EP 0 696 006 A2).

Applicant has carefully considered the Office rejections and respectfully submits that the claims, as amended and supported by the clarifications herein, are distinguishable from the cited reference.

According to the MPEP §2143.01, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found in either the references themselves or in the knowledge generally available to one of ordinary skill in the art."

A useful presentation for the proper standard for determining obviousness under 35 USC §103(a) can be illustrated as follows:

1. Determining the scope and contents of the prior art;
2. Ascertaining the differences between the prior art and the claims at issue;
3. Resolving the level of ordinary skill in the pertinent art; and

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4. Considering objective evidence present in the application indicating obviousness or unobviousness.

Pursuant to a telephone interview on Jan. 26, 2005, the Applicant's Attorney Neil Maloney heretofore amended the claims to more distinctly define the claimed invention to incorporate the suggestions by the office, which were filed with the Request for Continued Examination. In response to the non-final rejection, the Applicant has further amended the claims to more succinctly define the invention and clarify some of the unique features.

In more particular detail, each of the Applicant's independent claims 1, 12, and 17 have been amended to define a patient registration kiosk system that allows patients to self-register at a kiosk. Among other features, the patient can review and update his/her own information which is stored on the healthcare provider database. The patient also can review and update their insurance information on the database, including eligibility. The kiosk system includes, among other things, an eligibility confirmation interface for forming an electronic communication link between the payor and the patient, wherein the payor responds to eligibility confirmation requests sent by the patient at the kiosk and the patient's eligibility for coverage is confirmed by the payor over the electronic communication link. This eligibility confirmation is performed by the patient prior to his/her appointment. Claim 1 further includes saving images of both sides of the insurance card. Claim 12 further includes certain elements of the kiosk system which includes the readers and scanners. And, the kiosk system generates a 'receipt' directly to the patient confirming the registration information. Claim 17 further includes an EDI interface for communicating information between the payor and the patient and notes that the insurance information is processed at each visit. Dependent claims contain further limitations as defined therein. The amended claims traverse the rejections and allowance is respectfully requested.

With respect to the additional clarifications, the Office states that Burko teaches a patient registration kiosk system that allows patients to "self-register" for an appointment with a healthcare provider (Burko Par. 0015). Office also alleges that Burko provides a patient identification mechanism for uniquely identifying a patient to selectively access information from

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the system relating to the customer (Burko Figure 3; Par's 0015, 0049, 0061). Office also believes that Burko provides a user interface that presents retrieved information to the patient and allows the patient to selectively access information from the system relating to the customer or selectively update information managed by the system (Burko Figure 5, Par. 0015). And furthermore, the Office alleges that Burko includes an insurance plan identification mechanism for identifying insurance plan information including a payor associated with the patient (Burko par. 0048; Par's 0054, Par. 0058 and 0069).

Applicant respectfully disagrees. Burko is a patient scheduling system for appointments in addition to certain patient input of information. There is no eligibility verification by the payor nor would one be considered as Burko is intended for appointments and not registration.

More specifically, Burko Par. 0015 recites:

At the appointment, the customer may check in with a computer device or kiosk at the professional's office to indicate to the professional that the customer has arrived. The professional may selectively access information from the system relating to the customer or selectively update information managed by the system. In a further implementation, the accessing of information from the system includes obtaining a variety of icons that quickly inform the professional of specific information, such as whether or not the customer has arrived at the facility, the type of visit, and other useful information.

As is readily apparent in Burko – the patient is not the primary interface with the hospital computer system for registration information and confirmation of eligibility with the payor.

It is useful to note that some basic understanding of the terminology and standard procedures associated with medical institutions. The terms "scheduling", "registration", and "check-in" are all different functions as is known to those skilled in the art. Scheduling is setting up a date and time for which a patient can be seen by a physician, or a date and time for a patient to have a particular test. Registering is actually the collection of demographic and insurance information for the purpose of inputting this information into a system for use primarily by billing personnel. Checking-in generally refers to the actual arriving of the patient, whereas 'Arriving' for the appointment means that the patient is there for the

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appointment, as opposed to being a "no-show." Check-in is also when any miscellaneous information is collected as well as when co-payment is obtained.

Burko does refer to some form of customer interaction with the kiosk, with a focus on scheduling appointments (see Burko Fig. 3 and Par. 0045; see also Burko Fig. 5 and Par's 0060 and 0061). Burko does not provide for the self-registration process prior to the appointment described in the present invention. Registration according to the present invention obtains the necessary information for both new and established patients and confirms the insurance eligibility with the payor. And, this is done by the patient at the kiosk for each patient visit. State of the art systems similar to Burko are unable to solve the present problems and the large number of denials for, "Patient Not Eligible" that occur due to error prone record keeping in the state of the art. Only the present invention captures all the necessary and required information in a manner that facilitates the front-end processing and alleviates many of the billing and revenue collecting errors prevalent in the field due to inaccurate and stale patient data.

With respect to an insurance plan identification mechanism, the Office relies upon Burko Par.'s 0048; 0054; 0058 and; 0069. There is a description of billing information intake for a new customer only in Burko (Par. 0048). Furthermore, in Figure 4 (and accompanying description in Par. 0054), the appointment module includes a brief discussion that "[I]nformation relating the customer may be obtained from the customer and/or pulled from the customer account to determine the customer category as a factor for prioritizing the appointment. For example, an immediate family member of the professional or one that has paid for a preferred status may receive a higher priority. Other customer category information may include the customer's insurance or history to pay the professional, and other such information relating to the customer that may provide for prioritization." There is no reference to updating or editing the patient insurance information by the patient at the kiosk for each visit. And, there is certainly no description of the patient communicating with the payor confirming eligibility as specified in the amended claims.

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If the office is relying upon the description of Par. 0069, which makes a broad statement with no details or enabling structure, the Applicant respectfully requests that the office explain such operations in a fully enabling manner. Burko certainly provides no description of the patient updating the insurance information at a kiosk and establishing communications with the payor from the kiosk to confirm eligibility as explained in the detailed description of the present invention

In summary, Burko does not provide the claimed features of the present invention related to the self-registration kiosk system and in particular, Burko does not provide the insurance plan identification mechanism performed by the patient at the kiosk identifying insurance plan information including a payor associated with the patient; Burko does not provide a mechanism wherein the payor confirms patient eligibility; Burko does not provide the insurance card scanner embodiments capturing an image on both sides; and there is no 'receipt' in Burko as a patient confirmation. Therefore, the present invention is distinguished from Burko for at least these reasons.

The Office then acknowledges that Burko does not teach or otherwise disclose an eligibility confirmation interface for forming an electronic communication link between the payor and the patient wherein the payor responds to eligibility confirmation requests sent by the patient allowing confirmation of the patient's eligibility for coverage by the payor. This is accomplished prior to the appointment and is based on the identified insurance plan information over the electronic communications link.

The Office then alleges that Boyer teaches these attributes, however, the Applicant respectfully disagrees. Boyer is not a self-serve application. The physician's staff process information at the front-end and using co-branded cards and other financial payment policies. The invention of Boyer is primarily a third party adjudication system that tries to guarantee payment as compared to a patient intake/registration process design according to the terms of the present invention. In fact, nowhere in Boyer does the term 'kiosk' even appear.

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Boyer describes a system from the healthcare provider's perspective that wishes to secure payment for medical services. In one variation, "the first step in the method of the invention is to issue a co-branded healthcare/payment card to the patient at step 100. As noted above, the co-branded card is preferably issued through the patient's employer in place of the patient's conventional healthcare ID card. If the patient (employee) is not creditworthy, the employer may issue a securitized card that may or may not be co-branded, thereby exempting the employee from participation in the payment system described herein." (Col 10, lines 6-14; see also Fig. 3)

The other notable variation of Boyer Figure 4 shows that the only task performed by the patient is handing the card to the administrator and the subsequent financial processing (See Boyer Col 12, lines 20-24; see also Boyer Figure 4 step 200).

The present claims have been amended to clarify that the present system is a self-register kiosk system and not a healthcare provider computing system. In the present invention, the patient can update insurance information on the healthcare provider database and further allows the patient to communicate with the payor to obtain eligibility confirmation.

The office alleges that certain features noted above are well-known in the art and that it would have been obvious to modify Burko to include an eligibility confirmation interface as described in the present invention. Thus, the office takes official notice that it would have been obvious to one of ordinary skill to modify the cited reference to form the kiosk system of the present invention.

However, the amended claims are in relation to a kiosk that is a self-registration system wherein the patient updates not only personal information but also updates insurance information. And, the present invention provides a link from the kiosk so that the patient can confirm the insurance eligibility. For at least the reasons stated herein, the Applicant submits that claims are patentably distinct over the cited references, whether alone or in combination.

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In addition, the Applicant disagrees with the Examiner's official notice. If it were obvious, then it should be easy to find a reference that suggests modifying the cited references to include having the patient make contact with the payor in order to confirm eligibility. Examiner is kindly reminded that "assertions of technical fact in areas of esoteric technology must always be supported by citation of some reference work" and "allegations concerning specific knowledge of the prior art, which might be peculiar to a particular art should also be supported." MPEP § 2144.03. The Applicant notes that a reference that merely discloses or suggests the general concept of communications between a payor and other parties is not sufficient to establish a *prima facie* case of obviousness. Rather, the reference or references must disclose or suggest a system wherein the patient forms a communication link with the payor to confirm eligibility from a self-registration kiosk as claimed in the present invention.

The Office also acknowledges that neither Burko nor Boyer disclose an imaging system that captures both sides of an insurance card. The office then references Sugiyama as an insurance card reader. As previously stated in the Office Action Response Oct. 12, 2004, Sugiyama includes a scanner for comparing one health insurance card image (taken at current appointment) with a previously recorded health insurance card image. But – Sugiyama does not disclose anything in relation to imaging both sides of a card. Furthermore, the comparison of Sugiyama as noted in the patent does not support a comparison function that would handle both sides in terms of imaging or display. The scanner of Sugiyama Figure 1 is intended to scan a single side of the card so that the image such as Sugiyama Figure 3 can show that single side of two different cards. There is nothing in Sugiyama to suggest or motivate a user to copy both sides of an insurance card. Only the present invention provides a purpose for copying both sides – and thus is the only invention that supports the claimed subject matter. And, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. As shown in Figure 7f of the present invention, the front and back of the card are employed in the processing according to the present system.

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It should also be noted that the claims further describe imaging using scanned data, including OCR, to identify insurance plan information and eligibility, such as recited in dependent claim 5. This data can then be sent via the EDI link between the patient and the payor to confirm insurance plan information and eligibility. While Sugiyama does disclose some character recognition (Sugiyama Col. 1, lines 50-55) there is no confirmation eligibility with the payor and other such features associated with Sugiyama. The features of the EDI link are specifically claimed in Applicant's claim 6 dependent.

With respect to the claimed element of scanning both sides of the insurance card, once again, the office takes official notice that it would have been obvious to one of ordinary skill to combine Burko and Boyer and also to combine the scanner of Sugiyama to scan each side of the insurance card for storage in the database. If it is so obvious, Applicant respectfully requests that the office provide a reference that teaches scanning both sides of a single card as taught by the present invention – or any motivation for such scanning. Applicant also requests that the office locate such references that also perform OCR to identify insurance plan information and eligibility confirmation. Reconsideration and allowance of the rejected claims is requested for at least the reasons set forth herein.

The Office also rejected claims 2-8 and alleges that the cited references support the 'receipt' mechanism as noted in the present application. The office relates the co-branded credit card of Boyer with the receipt of the present invention. As previously indicated, the Boyer adjudication system is a financial adjudication system. Looking at Boyer Figure 4, this is not a self-register kiosk system wherein the patient gets a registration receipt. Referring to Boyer Col 12, lines 6-36, the patient can do certain prior review of information – but this is not a patient registration. The co-branded card represents payment authorization from a financial institution. At the healthcare provider, the patient merely hands over the co-branded card. While the Boyer co-branded card guarantees payment – it is not the receipt as issued by the self registration kiosk

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to the patient, wherein the patient confirms eligibility directly with the payor pertaining to his/her insurance plan information.

As a further point of novelty in claims 5, 6 and also in claim 17, the present invention can employ scanning of the insurance plan identification by the patient at the kiosk and an EDI link between the patient and payor. None of the other systems allow the patient to employ a reader/scanner device and have the content supplied to the payor for eligibility confirmation as described by the present invention. The present invention further includes claims related to OCR of the insurance card for identification and eligibility confirmation such as transmission to the payor, thereby allowing the healthcare provider to be able to confirm insurance coverage.

With respect to EDI, Boyer the use of the co-branded card issued, preferably issued by the employer (Boyer Col 10, lines 6-10) that guarantees payment and can be used in conjunction with the communications with third parties via EDI - however none of the cited references, alone or in combination, establish an EDI interface directly between the patient and the payor. Reconsideration and allowance of the rejected claims is requested for at least the reasons set forth herein.

With respect to claim 12, the Office further alleges that Sugiyama discloses a 'receipt' as described in the present application. As previously articulated, Sugiyama discloses an automatic patient reception and queuing system that includes a scanner for converting data on a health insurance card or patient ID card into image data, (Sugiyama Col. 1, lines 51-53; Col. 2, lines 35-38; Figure 1) which includes a character recognition means for converting the image data into character data. (Sugiyama Col. 1, lines 53-54; Col. 2, lines 42-48; Figure 1). Sugiyama also discloses that the validity of a health insurance card can be confirmed by comparing the newly acquired image data with the previously acquired image data. (Sugiyama Col. 6, lines 22-42). Sugiyama's Figure 6 shows this comparison by viewing the previously acquired card image on side A of a split screen and the newly acquired card image on side B of the split screen.

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Thus, Sugiyama merely accesses a database to retrieve a previously stored insurance card image so that image can be compared to a new image for the purposes of checking the "validity" of the card (i.e., making sure the stored card image is the same as the card image currently being presented). At no point, however, does Sugiyama disclose or suggest how a healthcare provider could confirm the patient's eligibility for coverage by the insurance company. Furthermore the 'reception ticket' shown in Sugiyama Figure 4 contains no health insurance data or confirmation from the payor. As noted in the Sugiyama Abstract, the Sugiyama reception ticket merely shows "the order of reception and expected time of examination and treatment based on the data retrieved from the storage." In distinction, the receipt of the present invention includes insurance plan information and eligibility confirmation as provided by the communications link with the payor. For at least these reasons, the rejection is traversed and allowance is requested.

Moreover, the Applicant respectfully submits that the combination of patient reception system of Sugiyama with the third party financial management vehicle of Boyer and further in view of the appointment kiosk of Burko is an improper combination of references, in that, when taken as a whole, there is no motivation or suggestion to combine the references to achieve the Applicant's claimed invention. Section 2143.01 of the MPEP states: "The mere fact that references can be combined or modified is not sufficient to establish prima facie obviousness." In addition, the "level of skill in the art cannot be relied upon to provide the suggestion to combine references." Thus, it is inappropriate to use the Applicant's claims as a road map in selecting a combination of references to form a 103 rejection. Rather, there must be some objective reason to combine the teachings of the references to make the claimed invention. Applicant cannot find such an objective reason.

The Federal Circuit in *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1442 (Fed. Cir. 1992) clearly indicated that the Office should use common sense when determining what types of references constitute analogous art. In order to rely on a reference as a basis for rejection of the applicant's invention, the reference must either be in the field of the applicant's endeavor or, if

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not, then be reasonably pertinent to the particular problem with which the inventor was concerned.

Patent examination is conducted by hindsight and with knowledge of the applicant's invention, and there is subjectivity used to determine whether an inventor would reasonably be motivated to go to the field in which the examiner found the reference, in order to solve the problem confronting the inventor. The problem solved by the present invention is to facilitate the patient registration system by allowing the patient direct control at the kiosk. Employing "common sense" in deciding the fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor, one would not be motivated to look at healthcare provider solutions, as they are intended to solve healthcare provider problems. It has not been shown that a person of ordinary skill, seeking to solve a problem of patient self-registration, would reasonably be expected or motivated to look to healthcare provider software systems.

The combination of elements from non-analogous sources, in a manner that reconstructs the applicant's invention only with the benefit of hindsight, is insufficient to present a prima facie case of obviousness. There must be some reason, suggestion, or motivation found in the prior art whereby a person of ordinary skill in the field of the invention would make the combination. The knowledge cannot come from the applicant's invention itself and the combination of Boyer, Burko, and Sugiyama should not be allowed.

The present invention, in general, relates to a self-register kiosk system wherein a patient enters and updates data as described therein which includes insurance identification mechanisms and an eligibility confirmation interface including a communications link between the patient and payor. Some of the other features include an insurance card scanner to generate a card image on both sides of the card and issuance of a receipt. The patient registration process reduces administrative and billing efforts by assuring that current information is on file – having the patient interface with the database and make appropriate changes. It is a self-serve design,

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wherein the patient performs the review and edits as well as initiates confirming the eligibility with the payor. Patients review the insurance and demographic information currently in the hospital system database and update this information at the kiosk. In certain embodiments, at the conclusion of the process, they receive a receipt, which they present to the physician staff, or unit where they are being seen that confirms the eligibility from the payor. The receipt from the kiosk "proves" the patient has registered him/herself, and this is done at each patient visit. The receipt may include patient specific information, such as medical record number as well as key information regarding Insurance Plan, Insurance Type, Insurance Eligibility Status, Co-Payment amount and Primary Care Physician. This receipt differs from Boyer's co-branded card, which is similar to a credit card statement. And, the receipt of the present invention differs for the 'reception ticket' of Sugiyama that is just a check-in ticket.

As a result, front-end staff (doctor's office staff and hospital registration staff) is reduced as a result of the self-serve aspect. "Back-end" labor effort is reduced as a result of better information, and less, "churning" of claims and patient statements. This is all accomplished by allowing the patient him/herself to easily and efficiently update and verify insurance and demographic (address, phone, employment) information with each visit. The end result is that billing staff can be assured that they have accurate and current information (particularly on those established patient population, which comprise the overwhelming majority at large academic institutions: approx 80%). They also have the imaged insurance card should questions arise as to the plan specifics (HMO, vs. PPO, co-payment amount, etc.).

Telephone Interview

Present Office policy places great emphasis on telephone interviews initiated by the examiner. For this reason, it is not necessary for an attorney to request a telephone interview. Examiners are not required to note or acknowledge requests for telephone calls or state reasons why such proposed telephone interviews would not be considered effective to advance prosecution. However, it is desirable for an attorney to call the examiner if the attorney feels the call will be beneficial to advance prosecution of the application. MPEP§408

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The Applicant believes the above amendments and remarks to be fully responsive, thereby placing this application in condition for allowance. Favorable action is solicited. The Examiner is kindly invited to contact the undersigned attorney by telephone, facsimile, or email for quickest resolution, if there are any remaining issues.

Respectfully submitted,



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